

REMARKS

Reconsideration and allowance of the above-reference application are respectfully requested.

Claims 1-76 are unchanged and remain pending in the application.

Claims 1, 6-12, 14, 35-36, 38-43, 48-54, 56, 59, 64-70 and 72 stand rejected under 35 USC §103 in view of U.S. Patent No. 6,625,460 to Patil and U.S. Patent No. 6,671,355 to Spielman et al. This rejection should be withdrawn, because as demonstrated below by the Statement of Common Ownership in accordance with MPEP §706.02(l)(2) (page 700-55, Rev. 2, May 2004), U.S. Patent No. 6,671,355 to Spielman et al. is not available as a reference under 35 USC §103(c).

Further, it is believed claims 2-5, 15-16, 44-47, 57-58, 60-63, and 73-74 are allowable in view of their dependency from their respective independent claims.

Hence, it is believed claims 1-12, 14, 35-36, 38-54, 56-70 and 72-74 are allowable.

Claims 17-19, 25,27, and 32-34 stand rejected under §103 in view of Patil, U.S. Patent No. 6,108,559 to Astrom et al., and Wong. This rejection is respectfully traversed. The comments submitted in the Amendment filed April 16, 2004 are incorporated in their entirety herein by reference.

Further, Applicant traverses the Official Action as incomplete because it fails to answer the material traversed. (See MPEP §707.07(f) "Where the applicant traverses any rejection, the examiner should, if he or she repeats the rejection, take note of the applicant's argument and answer the substance of it."). The Official Action fails to acknowledge Applicant's prior traversal.

As admitted in the rejection, Patil does not disclose: (1) forwarding a copy of a SMS message to a unified messaging server, (2) enclosing the SMS message into a common format message, or

(3) supplying the common format message to at least one selected destination based on the subscriber attribute information, as claimed.

Further, the Official Action admits that the combination of Patil and Astrom fails to disclose or suggest (1) enclosing the SMS message by the unified messaging server into a common format message, or (2) supplying the common format message to at least one selected destination based on the subscriber attribute information.

Wong is directed to call setup procedures (i.e., signaling) during initiating of a calls such as voice calls, fax calls, video calls, conference calls, etc. (col. 1, lines 5-46), and is not within the field of the inventors' endeavor, namely providing a unified messaging system configured for supplying messages to a subscriber, independent of message format; further, Wong is not reasonably pertinent to the particular problem with which the inventors were involved, namely providing SMS messages to non-SMS device destinations. Wong provides no disclosure or suggestion of enclosing an SMS message into the claimed common format message, but rather discloses sending a call setup message as a MIME encoded e-mail message between a calling agent and a called agent (as opposed to the claimed destination). Hence, Wong is non-analogous art. In re Wood, 202 USPQ 171, 174 (CCPA 1979).

Moreover, the hypothetical combination neither discloses nor suggests enclosing the SMS message into a common format message, as claimed, and fails to address the problems addressed by the inventors. In particular, Wong is directed to multimedia call signaling, and provides no relation to SMS messaging.

Moreover, Wong merely describes that call setup requests destined for a called agent are

encapsulated in a common format since different telephony and communication networks use different signalling protocols (see, e.g., col. 1, lines 56-67 and col. 2, lines 14-22). There is no disclosure or suggestion that the common format message is supplied to at least one selected destination based on the subscriber attribute information (which has been accessed by the unified messaging server based on the SMS message), as claimed. Rather, the call setup request is merely sent to the called agent, which still needs to look up a current terminal identifier after having received the call setup e-mail.

Hence, Wong neither discloses nor suggests, singly or in combination, that the common format message is supplied to a selected destination, as claimed.

There is no disclosure or suggestion that one skilled in the art would modify the hypothetical combination of Patil and Astrom to add Wong, as claimed, since Wong is directed to call setup, and would interfere with the primary operation of the hypothetical combination related to SMS messaging. Hence, if the proposed modification or combination would change the principle of operation of the prior art invention being modified, then the teachings of the references are not sufficient to render the claims prima facie obvious. MPEP § 2143.01, page 2100-132 (Rev. 2, May 2004) (citing In re Ratti, 123 USPQ 349 (CCPA 1959)).

An evaluation of obviousness must be undertaken from the perspective of one of ordinary skill in the art addressing the same problems addressed by the applicant in arriving at the claimed invention. Bausch & Lomb, Inc. v. Barnes-Hind/Hydrocurve, 23 USPQ 416, 420 (Fed. Cir. 1986), cert. denied, 484 US 823 (1987). Thus, the claimed structures and methods cannot be divorced from the problems addressed by the inventor and the benefits resulting from the claimed invention. In re

Newell, 13 USPQ2d 1248, 1250 (Fed. Cir. 1989). There is no disclosure in the hypothetical combination that a destination subscriber can receive an SMS message according to any subscriber-selected protocol (see, e.g., page 4, lines 2-4 of the specification), based on generation of a common-format message that encloses the SMS message.

For these and other reasons, the §103 rejection of independent claim 17 should be withdrawn.

Claims 28-30 and 75-76 stand rejected under §103 in view of Patil, Astrom, Wong, and Spielman. As demonstrated below by the Statement of Common Ownership in accordance with MPEP §706.02(1)(2) (page 700-55, Rev. 2, May 2004), Spielman et al. is not available as a reference under 35 USC §103(c). Hence, this rejection should be withdrawn.

It is believed claims 20-23 are allowable in view of their dependency from claim 17.

The indication of allowable subject matter in claims 13, 31, 37, 55, and 71 is acknowledged. It is believed these claims are allowable in view of the foregoing.

STATEMENT OF COMMON OWNERSHIP

At the time the invention claimed in the subject application was made, the subject application 09/739,687 and U.S. Patent No. 6,671,355 to Spielman et al. were owned by, or subject to an obligation of assignment to, the same entity (Cisco Technology, Inc., of San Jose, California).

CONCLUSION

In view of the above, it is believed this application is and condition for allowance, and such a Notice is respectfully solicited.

To the extent necessary, Applicant petitions for an extension of time under 37 C.F.R. 1.136. Please charge any shortage in fees due in connection with the filing of this paper, including any missing or insufficient fees under 37 C.F.R. 1.17(a), to Deposit Account No. 50-1130, under Order No. 95-455, and please credit any excess fees to such deposit account.

Respectfully submitted,



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(September 25, 2004 = Saturday)